

AN ACT

relating to the prosecution of and punishment for certain trafficking and prostitution offenses and certain other consequences of those offenses; increasing criminal penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 62.001(5), Code of Criminal Procedure, is amended to read as follows:

(5) "Reportable conviction or adjudication" means a conviction or adjudication, including an adjudication of delinquent conduct or a deferred adjudication, that, regardless of the pendency of an appeal, is a conviction for or an adjudication for or based on:

(A) a violation of Section 21.02 (Continuous sexual abuse of young child or children), 21.09 (Bestiality), 21.11 (Indecency with a child), 22.011 (Sexual assault), 22.021 (Aggravated sexual assault), or 25.02 (Prohibited sexual conduct), Penal Code;

(B) a violation of Section 43.04 (Aggravated promotion of prostitution), 43.05 (Compelling prostitution), 43.25 (Sexual performance by a child), or 43.26 (Possession or promotion of child pornography), Penal Code;

(B-1) a violation of Section 43.02 (Prostitution), Penal Code, if the offense is punishable under Subsection (c-1)(3) of that section;

1 (C) a violation of Section 20.04(a)(4)
2 (Aggravated kidnapping), Penal Code, if the actor committed the
3 offense or engaged in the conduct with intent to violate or abuse
4 the victim sexually;

5 (D) a violation of Section 30.02 (Burglary),
6 Penal Code, if the offense or conduct is punishable under
7 Subsection (d) of that section and the actor committed the offense
8 or engaged in the conduct with intent to commit a felony listed in
9 Paragraph (A) or (C);

10 (E) a violation of Section 20.02 (Unlawful
11 restraint), 20.03 (Kidnapping), or 20.04 (Aggravated kidnapping),
12 Penal Code, if, as applicable:

13 (i) the judgment in the case contains an
14 affirmative finding under Article 42.015; or

15 (ii) the order in the hearing or the papers
16 in the case contain an affirmative finding that the victim or
17 intended victim was younger than 17 years of age;

18 (F) the second violation of Section 21.08
19 (Indecent exposure), Penal Code, but not if the second violation
20 results in a deferred adjudication;

21 (G) an attempt, conspiracy, or solicitation, as
22 defined by Chapter 15, Penal Code, to commit an offense or engage in
23 conduct listed in Paragraph (A), (B), (C), (D), (E), (K), or (L);

24 (H) a violation of the laws of another state,
25 federal law, the laws of a foreign country, or the Uniform Code of
26 Military Justice for or based on the violation of an offense
27 containing elements that are substantially similar to the elements

1 of an offense listed under Paragraph (A), (B), (B-1), (C), (D), (E),
2 (G), (J), (K), or (L), but not if the violation results in a
3 deferred adjudication;

4 (I) the second violation of the laws of another
5 state, federal law, the laws of a foreign country, or the Uniform
6 Code of Military Justice for or based on the violation of an offense
7 containing elements that are substantially similar to the elements
8 of the offense of indecent exposure, but not if the second violation
9 results in a deferred adjudication;

10 (J) a violation of Section 33.021 (Online
11 solicitation of a minor), Penal Code;

12 (K) a violation of Section 20A.02(a)(3), (4),
13 (7), or (8) (Trafficking of persons), Penal Code; or

14 (L) a violation of Section 20A.03 (Continuous
15 trafficking of persons), Penal Code, if the offense is based partly
16 or wholly on conduct that constitutes an offense under Section
17 20A.02(a)(3), (4), (7), or (8) of that code.

18 SECTION 2. Section 20A.02(a-1), Penal Code, is amended to
19 read as follows:

20 (a-1) For purposes of Subsection (a)(3), "coercion" as
21 defined by Section 1.07 includes:

22 (1) destroying, concealing, confiscating, or
23 withholding from a ~~the~~ trafficked person, or threatening to
24 destroy, conceal, confiscate, or withhold from a ~~the~~ trafficked
25 person, the ~~trafficked~~ person's actual or purported:

26 (A) ~~(1)~~ government records; or

27 (B) ~~(2)~~ identifying information or documents;

1 (2) causing a trafficked person, without the person's
2 consent, to become intoxicated, as defined by Section 49.01, to a
3 degree that impairs the person's ability to appraise the nature of
4 the prohibited conduct or to resist engaging in that conduct; or

5 (3) withholding alcohol or a controlled substance to a
6 degree that impairs the ability of a trafficked person with a
7 chemical dependency, as defined by Section 462.001, Health and
8 Safety Code, to appraise the nature of the prohibited conduct or to
9 resist engaging in that conduct.

10 SECTION 3. Section 43.03(b), Penal Code, is amended to read
11 as follows:

12 (b) An offense under this section is a felony of the third
13 degree [~~state jail felony~~], except that the offense is:

14 (1) a felony of the second [~~third~~] degree if the actor
15 has been previously convicted of an offense under this section; or

16 (2) a felony of the first [~~second~~] degree if the actor
17 engages in conduct described by Subsection (a)(1) or (2) involving
18 a person younger than 18 years of age engaging in prostitution,
19 regardless of whether the actor knows the age of the person at the
20 time of the offense.

21 SECTION 4. Section 43.04(b), Penal Code, is amended to read
22 as follows:

23 (b) An offense under this section is a felony of the [~~second~~
24 ~~degree, except that the offense is a felony of the~~] first degree [~~if~~
25 ~~the prostitution enterprise uses as a prostitute one or more~~
26 ~~persons younger than 18 years of age, regardless of whether the~~
27 ~~actor knows the age of the person at the time of the offense)].~~

1 SECTION 5. Section 43.05, Penal Code, is amended by
2 amending Subsections (a) and (b) and adding Subsection (d) to read
3 as follows:

4 (a) A person commits an offense if the person knowingly:

5 (1) causes another by force, threat, coercion, or
6 fraud to commit prostitution; or

7 (2) causes by any means a child younger than 18 years
8 to commit prostitution, regardless of whether the actor knows the
9 age of the child at the time of the offense.

10 (b) An offense under this section [~~Subsection (a)(1) is a~~
11 ~~felony of the second degree. An offense under Subsection (a)(2)] is
12 a felony of the first degree.~~

13 (d) For purposes of this section, "coercion" as defined by
14 Section 1.07 includes:

15 (1) destroying, concealing, confiscating, or
16 withholding from a person, or threatening to destroy, conceal,
17 confiscate, or withhold from a person, the person's actual or
18 purported:

19 (A) government records; or

20 (B) identifying information or documents;

21 (2) causing a person, without the person's consent, to
22 become intoxicated, as defined by Section 49.01, to a degree that
23 impairs the person's ability to appraise the nature of the person's
24 conduct that constitutes prostitution or to resist engaging in that
25 conduct; or

26 (3) withholding alcohol or a controlled substance to a
27 degree that impairs the ability of a person with a chemical

1 dependency, as defined by Section 462.001, Health and Safety Code,
2 to appraise the nature of the person's conduct that constitutes
3 prostitution or to resist engaging in that conduct.

4 SECTION 6. (a) The change in law made by this Act to
5 Article 62.001(5), Code of Criminal Procedure, applies only to a
6 person who is required to register under Chapter 62, Code of
7 Criminal Procedure, on the basis of a conviction or adjudication
8 for or based on an offense committed on or after the effective date
9 of this Act. A person who is required to register under Chapter 62,
10 Code of Criminal Procedure, solely on the basis of a conviction or
11 adjudication for or based on an offense committed before the
12 effective date of this Act is governed by the law in effect on the
13 date the offense was committed, and the former law is continued in
14 effect for that purpose.

15 (b) The changes in law made by this Act to Sections 20A.02,
16 43.03, 43.04, and 43.05, Penal Code, apply only to an offense
17 committed on or after the effective date of this Act. An offense
18 committed before the effective date of this Act is governed by the
19 law in effect on the date the offense was committed, and the former
20 law is continued in effect for that purpose.

21 (c) For purposes of this section, an offense was committed
22 before the effective date of this Act if any element of the offense
23 occurred before that date.

24 SECTION 7. This Act takes effect September 1, 2019.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1802 passed the Senate on April 17, 2019, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1802 passed the House on May 14, 2019, by the following vote: Yeas 141, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor